

Missouri Office of The State Long-Term Care Ombudsman Program

**Annual Report
Federal Fiscal Year 2004**



Carol J. Scott
State Long-Term Care Ombudsman
Missouri Department of Health and Senior Services



Missouri Department of Health and Senior Services

P.O. Box 570, Jefferson City, MO 65102-0570 Phone: 573-751-6400 FAX: 573-751-6010
RELAY MISSOURI for Hearing and Speech Impaired 1-800-735-2966 VOICE 1-800-735-2466



Julia M. Eckstein
Director

Matt Blunt
Governor

Office of the Long-Term Care Ombudsman Program

P.O. Box 570, Jefferson City, MO 65102
1-800-309-3282 Fax: 573-526-4314

April 18, 2005

Dear Colleagues:

On behalf of the State Office of the Long-Term Care Ombudsman Program for the State of Missouri, I am pleased to share with you this Annual Report of our activities for Federal Fiscal Year 2004.

Missouri's Long-Term Care Ombudsman Program is responsible for protecting the rights of the 55,555 residents in long term care facilities. During our 27 years of existence, we have worked toward improving the quality of life for these vulnerable, frail Missourians. This report points to both success and areas in which more work is needed.

Each year the program is fortunate to have hundreds of volunteers who donate their time and energy on behalf of long-term care residents. This report is written and published in their honor.

I invite you to contact me if you have any questions about our program or information in this report.

Sincerely,

Carol J. Scott
Missouri State Long-Term Care Ombudsman

Table of Contents

Historical Overview.....	4
Program Purpose.....	6
Ombudsman Program Organization.....	9
Ombudsman Program Services.....	12
Accomplishments: State & Regional Program Overview.....	15
Overview of Complaint Highlights.....	28
FFY 2004 Complaint Highlights.....	29
Ombudsman Program Funding.....	37
Ombudsman Program Recommendations.....	38
Appendices.....	40
Appendix A: Federal Older Americans Act.....	41
Appendix B: Missouri Long-Term Care Ombudsman Program State Statutes.....	50
Appendix C: OBRA 1987 Summary.....	55
Appendix D: Resident Rights in Missouri.....	58
Appendix E: Resources available from Long-Term Care Ombudsman Program.....	60

Historical Overview

The federal Long-Term Care Ombudsman Program was first initiated in 1971, in order to improve the quality of care in America's nursing homes and to respond to complaints submitted to the White House and the Department of Health, Education and Welfare about abuse and neglect of nursing home residents.

In December 1971, Congress appropriated funds for the establishment of nursing home ombudsman demonstration projects to focus on complaint resolution in nursing homes. The first contracts for the projects were awarded in 1972.

In 1975, the federal Administration on Aging invited the nation's state agencies on aging to submit proposals for grants to expand the development of ombudsman programs nationwide. The Administration on Aging (AoA), located in the United States Department of Health and Human Services, is the federal agency charged with responsibility for coordinating programs that benefit the elderly. AoA allocates the funds authorized under the Older Americans Act. AoA is responsible for enforcing program priorities and allocation standards established by Congress.

In addition, states were encouraged to rely on volunteer — rather than paid — ombudsmen. This focus reflected the Administration on Aging's belief that locally-based complaint resolution and resident advocacy programs would provide the most effective services to those who needed them.

1978 amendments to the *Older Americans Act* significantly strengthened the Ombudsman Program by requiring every state to have a program and specifically define ombudsman functions and responsibilities. State agencies on aging were required to establish an Ombudsman Program which would carry out the following activities:

- Investigate and resolve long-term care facility resident complaints;
- Promote the development of citizen organizations and train volunteers;
- Identify significant problems by establishing a statewide reporting system for complaints, and work to resolve these problems by bringing them to the attention of appropriate public agencies;
- Monitor the development and implementation of federal, state, and local long-term care laws and policies;
- Gain access to long-term care facilities and to resident records; and
- Protect the confidentiality of resident records, complainants' identities, and ombudsman files.

The 1981 reauthorization of the *Older Americans Act* further expanded the ombudsman duties by including personal care homes (or residential care facilities) to the ombudsman's realm of responsibilities. The name was changed from Nursing Home Ombudsman to Long-Term Care Ombudsman to reflect the duty expansion.

In 1987, amendments to the *Older Americans Act* made substantive changes which resulted in significant improvements to the Program's ability to advocate on behalf of residents of long-term care facilities, including:

- Ombudsman access to residents and resident records;
- Immunity to ombudsmen for the good faith performance of their duties; and
- Prohibitions against willful interference with the official duties of an ombudsman and/or retaliation against an ombudsman, resident, or other individual for assisting the Program in the performance of its duties.

The 1992 reauthorization of the *Older Americans Act* created Title VII - Allotments for Vulnerable Elder Rights Protection Activities.

Title VII strengthens the advocacy roles of the states on behalf of vulnerable older adults and notes the elder rights activities to be carried out by each state, including Ombudsman Programs.

Missouri History

In early 1978, the Missouri "Office of Aging" established a position of State Ombudsman to develop and implement the Ombudsman Program throughout the state. The first Ombudsman Program in Missouri began in 1978, and grew to nine regional programs, and the state office, within the next few years.

The Missouri Long-Term Care Ombudsman Program was signed into law in 1991. It establishes the Office of the State Long-Term Care Ombudsman for the purpose of helping to assure the adequacy of care received by residents of long-term care facilities and to improve the quality of life experienced by them, in accordance with the federal Older Americans Act, 42 U.S.C. 3001, et seq.

The staff of the Office works with Area Agencies on Aging, or contracted community agencies, to establish local long-term care ombudsman programs and recruit and train volunteers to serve as Ombudsman Volunteers.

Program Purpose

Statement of Overall Program Policy

It is important to understand the Ombudsman Program does not have enforcement powers of its own and is not a regulatory agency in any sense. Trust and confidence can be maintained only as long as residents, nursing facilities, agencies and the public know the ombudsman has no vested interest in any given case. The ombudsman's only interest is ensuring long-term care residents are able to freely exercise their rights.

Missouri Ombudsman Program Mission Statement and Goals

The mission of Missouri's Long Term Care Ombudsman Program is: To improve the quality of life for residents of long-term care facilities through advocacy and education. The goals of the program are :

- To provide ombudsman services to all residents of all long-term care facilities in Missouri, including Veterans Administration Nursing Homes.
- To advocate for residents rights.
- To provide community education regarding long-term care facility issues.

This is the task set before each ombudsman. These goals will help to ensure and maintain the best quality life possible for all residents in long-term care facilities.

To achieve these goals ombudsmen:

- Make sure all residents are informed of their rights as established by law.
- Strive to empower residents and/or help to resolve all complaints at the facility level through the involvement of all concerned parties.
- Relay non-confidential information to the community on residents needs and concerns.

Quality of Life

Quality of Life refers to elements which make life worth living. The components by which quality of life would be measured are not all quantifiable. Needs vary from individual to individual.

Major Cornerstones

The focus of the ombudsman efforts is resident-initiated complaints. While complaints may be made on behalf of residents by other individuals, care is taken that such complaints accurately reflect the concerns of the resident. Complaints are received in the strictest of confidence.

Investigation/resolution is not attempted without the resident's permission unless the problem affects a number of residents and can be approached in a generic sense without breaching confidentiality.

To resolve issues at the lowest possible level. Ombudsmen work within the system to make the system work for residents. No problem is too big or too small for an ombudsman to deal with. Ombudsmen can often solve problems before they become serious.

A key in this program is the word "empower." To empower is to enable or permit some action. Ombudsmen look for ways to empower residents to help themselves. It would be ironic if this very system, set up to ensure that residents know their rights and maintain their dignity, became part of the problem. Mediating a situation is just as important a function as is being an advocate.

What is an Ombudsman?

The word ombudsman (om-budz-man) is of Swedish origin, and means one who speaks on behalf of another. The Missouri Long-Term Care (LTC) Ombudsman Program is comprised of individuals whose main responsibility is to help residents in long-term care facilities maintain or improve their quality of life by helping ensure their rights are not violated.

Ombudsman Roles

The ombudsman has many different roles that may be applicable:

1. **Facilitator:** Helps people formulate or simplify problems and complaints.
2. **Educator:** Provides learning materials and educational brochures to facility staff, families, residents and the community at large, thus encouraging self-help and problem solving.
3. **Broker:** Makes referrals and monitors the referral to see that the problem is solved.
4. **Intermediary:** Promotes communication among those involved in a problem concerning long-term care.
5. **Collaborator:** Works with residents and staff toward mutually beneficial solutions.
6. **Mediator:** Brings together all pertinent individuals to arrive at an agreement or a compromise.
7. **Advocate:** Act on behalf of someone else.
8. **Investigator:** Gathers pertinent information from many sources. It is particularly important to evaluate the facts impartially.
9. **Problem solvers:** Brings about resolutions to problems or complaints concerning various aspects of long-term care.



Ombudsman Program Organization

Missouri Ombudsman Program Structure

The Missouri Department of Health and Senior Services (DHSS), is the hub for state advocacy services on behalf of the elderly.

The DHSS houses the Missouri Long-Term Care Ombudsman Program. The office of the State Long-Term Care Ombudsman (LTCO) is the highest reporting authority for the state and regional ombudsman programs. The State Long-Term Care Ombudsman coordinates the activities between the DHSS, the Regional Ombudsmen and the local ombudsmen volunteers. The State Long-Term Care Ombudsman works with advocacy groups, associations, and other interested agencies for the purpose of promoting the ombudsman program.

Missouri's ten Area Agencies on Aging administer the program on the local level by designating someone as the regional ombudsman coordinator. This coordinator may be an Area Agency on Aging staff person or may be a person who contracts with the area agency. Responsibilities of the coordinator include: ensuring ombudsman coverage to all long-term care facilities in their area; providing education regarding nursing facilities to the community in their region; and investigating and resolving complaints brought to them by residents or other people on behalf of residents.

The State Long Term Care Ombudsman is the contact for all ombudsman activities in the state. Changes on policies, regulations, reporting requirements, or information updates are primarily via the State Ombudsman. The Regional Ombudsman Coordinators attend quarterly meetings hosted by the State Ombudsman. This meeting is used to exchange information and provide in-service training.

The program staff of the nine regional programs are responsible for ensuring coverage in all facilities in their service area. The regional programs (the Area Agencies on Aging or their contracted service providers) utilize volunteers to assist with this task. Following screening and training, the ombudsman is assigned to a facility. The ombudsman receives orientation to the facility and its procedures, prior to making regular contact with the residents.

Having an ombudsman assigned to a particular facility provides the most accessible means of complaint resolution. Missouri's Long-Term Care Facility Regulations include resident access to the services of an ombudsman, 19 CSR 30-88.010-2(18).

The program seeks to diminish the sense of isolation experienced by residents, especially those without family. The ombudsman can assist the resident in achieving a sense of self determination. Ombudsmen strive to reinforce the importance of resident rights. While residents are provided information regarding their rights upon admission, the ombudsman is there as the resident adjusts to the facility to reiterate those rights and offer assistance in exercising those rights.

Even though facilities are required to have a grievance procedure, residents may be hesitant to voice concerns/complaints to a facility staff person for any number of reasons, i.e. fear of retaliation if the complaint was directed at a staff member. However, since ombudsmen are often members of the community and not tied to the facility, they are perceived as more objective/receptive to complaints.

Residents may even initially hesitate to register a complaint with an ombudsman; however, one of the advantages of the volunteer program model is that it enables the ombudsman to become a trusted friend over a period of time. By regular contact with residents the ombudsman becomes a confidant. The resident is assured of confidentiality, and the ombudsman will not pursue a complaint without the resident's permission.

Once the Ombudsman gains the resident's confidence, he/she may be able to provide encouragement and information to allow the resident to handle the complaint her/himself or the ombudsman may be asked to speak on behalf of the resident to administration and/or to other parties regarding any problems. The ombudsman provides prompt feedback to the resident regarding efforts to resolve complaints.



The Volunteer Ombudsman at the local level is always encouraged to solve problems at their own level. If the situation warrants it, the Regional Ombudsman Coordinator can be called upon to assist. The Regional Ombudsman Coordinator is able to call upon the State Ombudsman to assist in the situation when specific technical information is needed, the problem is a system-wide problem or added authority needs to be lent to the situation.

The chart below shows the types of long-term care facilities for which the State Long Term Care Ombudsman Program has legal jurisdiction to provide services to residents.

TYPE OF FACILITY	NUMBER OF FACILITIES	NUMBER OF BEDS
Skilled Nursing Homes	501	54,445
Intermediary Care Facilities	42	2,447
Residential Care Facilities II	361	15,338
Residential Care Facilities I	274	6,332
Veterans Homes	7	1,350
	TOTAL	TOTAL
	1,185	79,912
*Dept. of Health & Senior Services: Section for Long-Term Care, December 2004		
**Missouri Veterans Commission, March 2005		

Ombudsman Program Services

Type of Staff	Measure	State Office	Local Programs
Paid Staff	FTE	3	16.65
Paid Clerical Staff	FTE	1	3.35
Volunteers	Number of Vol.	0	300

Activity	Measure	State	Local
Training for staff	Sessions	19	214
	Hours	152	1,533
Trainees		350	1,121
Tech Assistance	% of staff time	30%	35%
Training for facility staff	Sessions	4	77
	Topic 1	Resident Rights	Resident Rights
	Topic 2	Ombudsman Program	Abuse/Neglect of Residents
	Topic 3	Culture Change	Ombudsman Program
Consultation to facilities	Consults	18	784
	Topic 1	Transfer/Discharge	Resident Rights
	Topic 2	Rights of Guardians, etc.	Transfer/Discharge
	Topic 3	Ombudsman Program	Legal Issues

Activity	Measure	State	Local
Information and Consults to Individuals	Consults	249	2,175
	Topic 1	Nursing Care/Regulations	Resident Rights
	Topic 2	Choosing a facility	Legal Issues
	Topic 3	Medicare/Medicaid	Choosing a facility
Resident Visitation	No. NF Visited	5	482
	No. RCF visited	0	327
Participation in surveys	No. Surveys	0	215
Work with Resident Councils	No. Meetings attended	0	241
Work with Family Councils	No. Meetings attended	0	56
Community Education	No. Sessions	8	113
Work with media	No. of interviews	10	27
	No. of press releases	3	18
Monitoring Laws and Regulations	% time	15%	3%



Technical Assistance - Consultation to the General Public

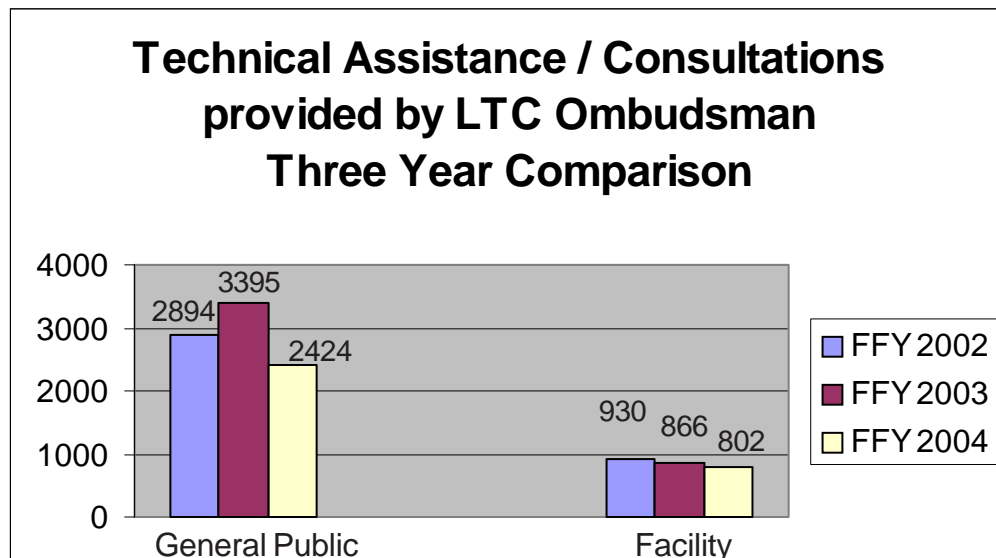
Ombudsman provided technical assistance consultations to 2,424 individuals during FFY 2004. The information most frequently requested was:

- Nursing Home Care and Regulations.
- How to Choose a Long-Term Care Facility.
- Medicare and Medicaid Questions.

Technical Assistance - Consultations to Nursing Homes and Residential Care Facilities

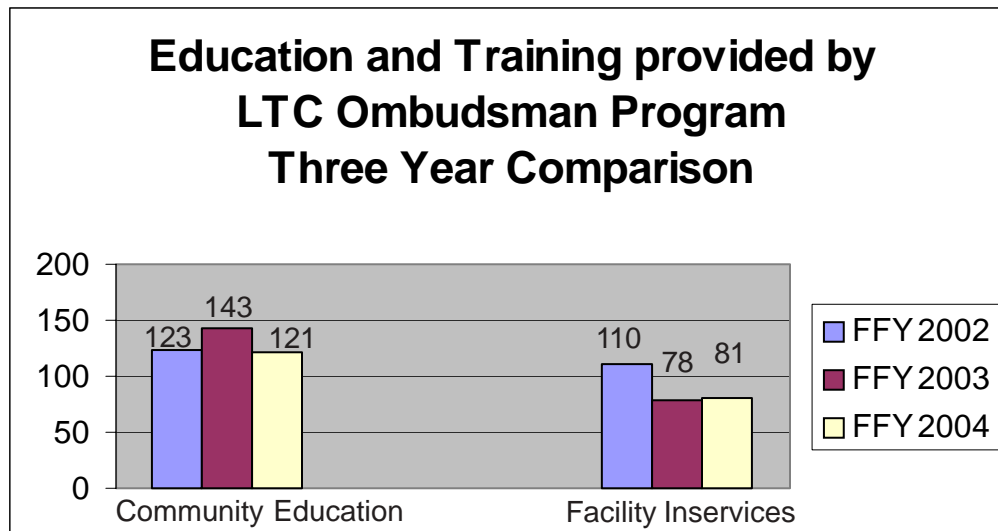
The LTC Ombudsman Program responded to 802 consultation requests during FFY 2004 from long-term care facilities regarding resident care issues such as:

- Facility Transfer and Discharge Questions.
- Resident Rights and Rights of Legal Guardians.
- Information about the Ombudsman Program.



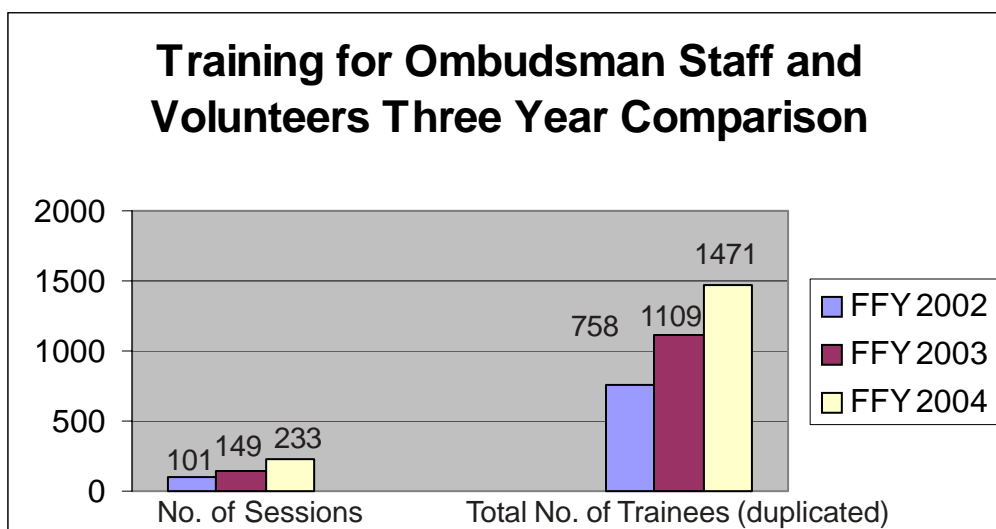
Education and Training for the Community and Facility Staff

The Long-Term Care Ombudsman Program provided 121 community education sessions and 81 facility inservices. Topcis of trainings included: Resident Rights and the LTC Ombudsman Program.



Training for Ombudsman Staff and Volunteers

Many new Volunteer Ombudsman were trained by the Regional Program staff as the program continues to work towards the goal of weekly coverage by an ombudsman in every nursing home. Volunteers also attended quarterly training meetings in each of the nine Regional Programs. The state office provided the Annual Volunteer Training Conference in the spring of 2004.



Accomplishments:

State & Regional Program Overview

Each year, the Missouri Long-Term Care Ombudsman Program, is challenged to be accessible to all the residents of Missouri's 1,178 long-term care facilities. Every week, throughout the year, staff and volunteers visit approximately 275 nursing facilities and 80 residential care facilities. The Ombudsman Program visited 25,326 residents (unduplicated) in FFY '04. It is through partnerships with AARP and Truman University that we have been successful in increasing the number of volunteers over the years. And, while this is an accomplishment we are proud of, we are very aware that the Ombudsman presence in many facilities is limited to a few visits a year, posters and brochures in their facility, and contact made by residents or family calling our toll-free 800 number.

Being a Long-Term Care Ombudsman is not for everyone. We have difficulty finding and retaining individuals who are willing to complete an 18 hour initial training, quarterly in-services, and written reports. Not to mention the actual work done by an Ombudsman: assisting people in overcoming gaps in communication; working with people feeling guilt (families); staff who sometimes are defensive; and listening to all sides and then working toward a resolution.

During the past year, the State office staff have worked on many initiatives. The following is a partial list of activities:

- Serve as a member of the Nursing Home Quality Initiative Advisory Committee.
- Worked with Lt. Governor Joe Maxwell in promoting the Ombudsman Program.
- Hosted the National Conference of State Long-Term Care Ombudsman.
- Serve on the CLAIM (Health Insurance Counseling Program) Advisory Committee.
- Serve on the SORT (Medicare Fraud Program) Advisory Committee.
- Serve on the Nursing Home Culture Change statewide organization.
- Worked with AARP in recruiting over 50 volunteers last year.
- Worked with Central Missouri State University on the Best Practices in Nursing Homes.
- Serve on the Missouri End-of-Life statewide Advisory Committee.
- Worked with the Missouri Association of Public Administrators on guardianship issues.
- Partnered with Missouri Protection and Advocacy on updating and printing the "Basic Guide for Understanding Guardianship and Conservatorship in Missouri."

- Member of the Missouri Aging Federation.
- Partnered with Center for Practical Bioethics on various nursing home ethics issues.
- Member of the Nursing Home and Home Health Abuse Task Force.
- Member of the Missouri Assisted Living Workgroup.
- Developed and presented training sessions for facility staff on topics such as: transfer/discharge; dignity and respect; and customer service.
- Worked with Dr. Novella Perrin of Central Missouri State University, on updating and publishing the “Role of the Social Worker” for long-term care facilities.
- Presented Mental Health training for the regional ombudsman programs.
- Hosted the 14th Annual Volunteer Ombudsman Training Conference, attended by 148 volunteers.

During the past year, the Regional Program Ombudsman staff have also worked on a wide variety of issues. Regional Program Ombudsman staff manage volunteers, and are available to consult and assist with problem solving for long-term care residents, their families, and facility staff. The following is a partial list of conversations, complaints, and information provided by one Regional Program Ombudsman staff person over the course of two days:

- A nursing home resident, currently in the hospital, wanted assistance with finding Medicare or Medicaid transportation to a nursing home in another state that would be closer to family. The resident was referred to several transportation providers.
- A woman in the community complained that she was not being allowed to visit her sister in the nursing home. The Ombudsman visited the nursing home resident who indicated she wanted to see her sister, and asked for the names of attorneys who might be able to help her. This is an ongoing case.
- A young resident called and complained that he had to wait two weeks to get his colostomy bags. He also said there was only one nurse aide for three hallways during the night shift. He wants help in moving out to an apartment with services. A visit was scheduled for later in the week.
- The daughter of a resident wants to move her mother to another nursing home. The mother is in the hospital because of bedsores acquired at the nursing home. The Ombudsman discusses the Medicare website and sends the daughter information on nursing homes in the area.

- A young mental health client was moving from another part of the state and wanted a list of residential care facilities where he could live. A list of facilities was sent to him.
- A Durable Power of Attorney (DPOA) for a short-term stay resident (rehabilitation following knee surgery) wants assistance in helping the resident return home with services. The resident's wife has Alzheimer's disease and the DPOA is concerned that family and neighbors are financially exploiting the couple. The DPOA would not give any identifying information beyond the name of the nursing home. A visit to the nursing home is scheduled.
- An elderly man called asking for information on choosing a nursing home. He is having trouble walking and he and his wife are sharing a walker. Information was provided on getting a second walker and it was determined that an assisted living/residential care facility arrangement might be more appropriate than a nursing home. A list of Residential Care Facilities was sent.

Ombudsman volunteers have also worked very hard over the last year. The state Ombudsman office asked Ombudsman volunteers for feedback on their experience as Ombudsman, and what they are the most proud of, here are a few of their comments:

- I love being an Ombudsman volunteer, being able to help residents when there is no one else to represent them.
- I have a good relationship with the residents. They know they can depend on me to speak for them if they desire.
- To know that my visits are welcomed and even looked forward to, and to know I have their confidence and appreciation.
- Making the day brighter for residents. Especially those who have no other visitors. Making a point of seeking out to help the ones who are portrayed as "problems," discover their better side and meet their needs.
- As an Ombudsman, I feel residents can talk freely to me, with no agenda to grind, such as staff and family. I'm there just to listen and help. So many residents just want to be heard, someone to talk to. They want to be treated with respect and not as a problem.

Missouri Long-Term Care Ombudsman Program

State Office of Long-Term Care Ombudsman

Carol Scott, Julie Wilson, Carrie Eckles

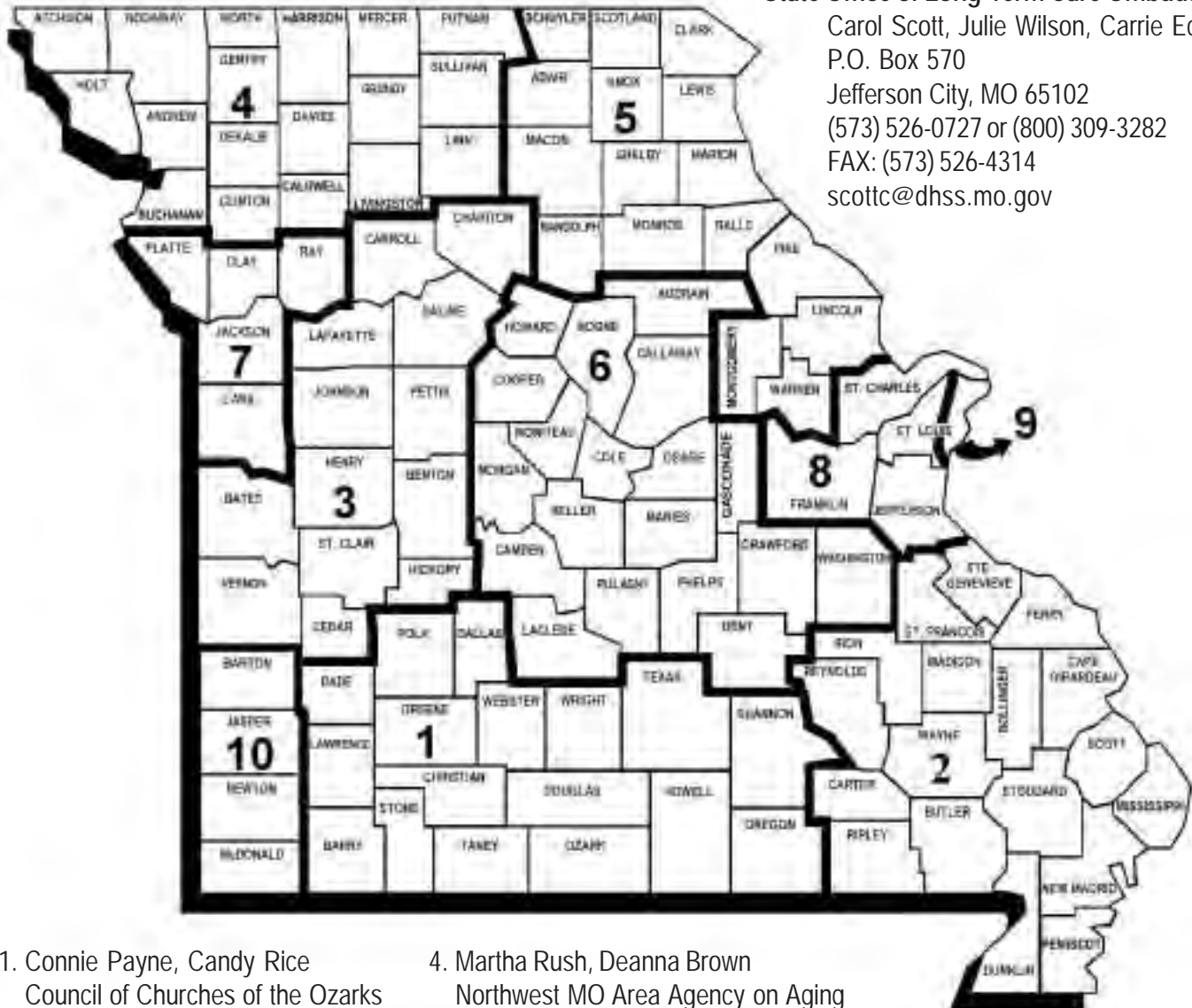
P.O. Box 570

Jefferson City, MO 65102

(573) 526-0727 or (800) 309-3282

FAX: (573) 526-4314

scottc@dhss.mo.gov



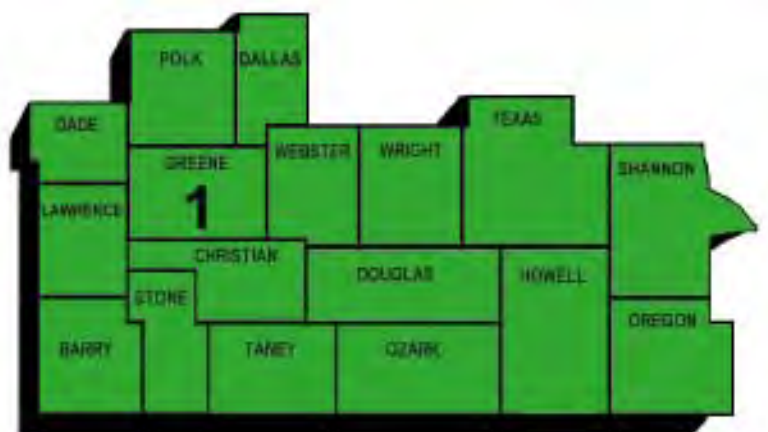
1. Connie Payne, Candy Rice
Council of Churches of the Ozarks
627 N. Glenstone
P.O. Box 3947 G.S.
Springfield, MO 65808
(417) 862-3598 FAX: (417) 862-2129
2. Imogene Unger, Lois Stitt
Southeast MO Area Agency on Aging
1219 N. Kingshighway, Suite 100
Cape Girardeau, MO 63701
(573) 335-3331 or (800) 392-8771
FAX: (573) 335-3017
3. Kathy Ray Smith, Karen Cairer
Care Connection for Aging Services
106 W. Young St., P.O. Box 1078
Warrensburg, MO 64093
(660) 747-3107 FAX: (660) 747-3100
4. Martha Rush, Deanna Brown
Northwest MO Area Agency on Aging
211 South Polk, P.O. Box 265
Albany, MO 64402
(660) 726-3800 FAX: (660) 726-4113
5. J. Patrick Wheeler, Clare Wheeler
MTLS Ombudsman Program
314 N. 11th Street
P.O. Box 248
Canton, MO 63435
(573) 288-5643 FAX: (573) 288-5272
6. Beth Simpson, Alice Jackson
Nicole King
Central MO Area Agency on Aging
Columbia, MO 65201
(573) 443-5823 FAX: (573) 875-8907
7. Michelle Brown, Susan Lundquist
Mid-America Regional Council
300 Rivergate Ctr., 600 Broadway
Kansas City, MO 64105-1536
(816) 474-4240 FAX: (816) 421-7758
- 8/9. Ric Cavanagh, Cheryl Wilson
LTC Ombudsman Program
8702 Manchester Road
Brentwood, MO 63144
(314) 918-8222 FAX: (314) 918-9188
10. Carolyn McLaren
The Vantage Point
P.O. Box 3990
Joplin, MO 64803
(417) 781-7562 FAX: (417) 781-1609



Connie Payne, Candy Rice
Council of Churches of the Ozarks
Long Term Care Ombudsman Program
627 N. Glenstone
P.O. Box 3947 G.S.
Springfield, MO 65808
(417) 862-3598 FAX: (417) 862-2129

The Ombudsman (paid staff) visited with Mr. Jones, following up on his previous complaint that his urinary catheter had not been flushed in a long time. Upon investigation, the records showed that it had been thirty days since it was last flushed. The Ombudsman, with the resident's permission, called the physician to find out if the catheter could be flushed again. The physician indicated the resident was prone to infections and therefore the orders were to flush it at least every thirty days.

At the next visit, Mr. Jones indicated to the volunteer the catheter had been flushed, but not in the correct way. The Ombudsman met with the facility Administrator to determine what action was being taken to ensure that catheters were flushed correctly. The administrator indicated that nothing was going to be done, and therefore the Ombudsman called the Elder Abuse & Neglect Hotline and reported the facility for incorrectly flushing a catheter. The Section for Long Term Care Regulation cited the facility and the nurse was suspended.





Imogene Unger, Lois Stitt
Southeast MO Area Agency on Aging
1219 N. Kingshighway, Suite 100
Cape Girardeau, MO 63701
(573) 335-3331 or (800) 392-8771
FAX: (573) 335-3017

A resident of a Residential Care Facility told the Ombudsman volunteer about a pension he thought he should be receiving from a company he had worked for years before. The resident, who is blind, asked the Ombudsman for assistance. The Ombudsman obtained the appropriate forms to request assistance when a person does not receive a promised pension. The Ombudsman helped the resident complete the forms and ensured that the forms were mailed.





Kathy Ray Smith, Karen Cairer
Care Connection for Aging Services
106 W. Young St., P.O. Box 1078
Warrensburg, MO 64093
(660) 747-3107 FAX: (660) 747-3100

An Ombudsman (paid staff) visited a resident who seemed to be very content. Upon asking what would make her life better, she replied, “Do you REALLY want to know? Every Saturday morning we are served the most wonderful biscuits and gravy for breakfast. I always get my laxative on Friday nights and I can’t enjoy my breakfast. Is that too small of a problem to work on?”

After getting her verbal permission to use her name to resolve her problem, the Ombudsman met with the facility’s Social Service Designee. The facility made the decision to change the resident’s laxative to Wednesdays instead of Fridays. The resident was very appreciative and indicated she felt empowered and important.

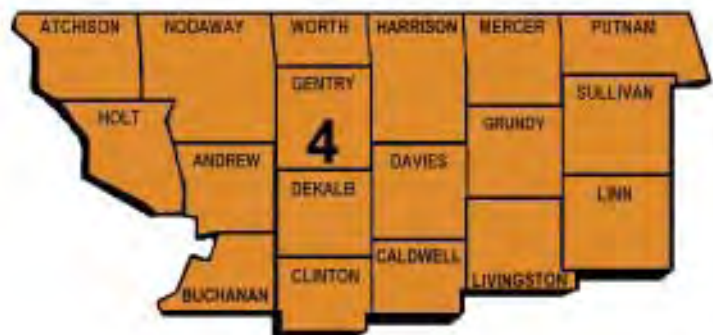




Martha Rush, Deanna Brown
Northwest MO Area Agency on Aging
211 South Polk, P.O. Box 265
Albany, MO 64402
(660) 726-3800 FAX: (660) 726-4113

Mrs. Smith has a profound loss of hearing, however, with the use of hearing aids in both ears, her hearing is enhanced. Her family is very supportive and attempts to always have two back-up hearing aids in the event one gets lost or broken. Mrs. Smith's daughter requested the Ombudsman's help after the hearing aids continued to be lost or broken. The Ombudsman volunteer advised the daughter to attend the resident's care plan meeting to make sure a plan was devised and followed regarding the hearing aids. The facility put a plan into action, calling on the charge nurse of each shift to ensure that Mrs. Smith's hearing aids were either being used or safely stored.

The facility staff lost one of the back-up aids the same day that a repaired hearing aid was returned to the facility. The facility refused to replace the lost hearing aid, saying that in their admission agreement and in their facility policies, the facility is not responsible for a resident's lost or stolen property. The Ombudsman volunteer met with the administrator and pointed out that there is a regulation stating that facilities must provide a safe environment for residents and their property. The next day, the facility agreed to reimburse the family.

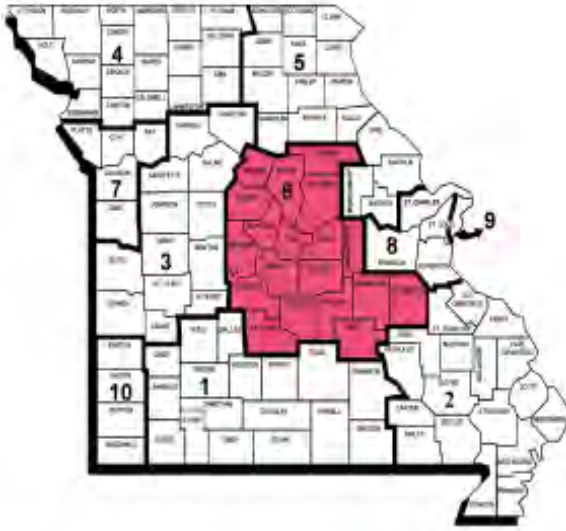




J. Patrick Wheeler, Clare Wheeler
MTLS Ombudsman Program
314 N. 11th Street
P.O. Box 248
Canton, MO 63435
(573) 288-5643 FAX: (573) 288-5272

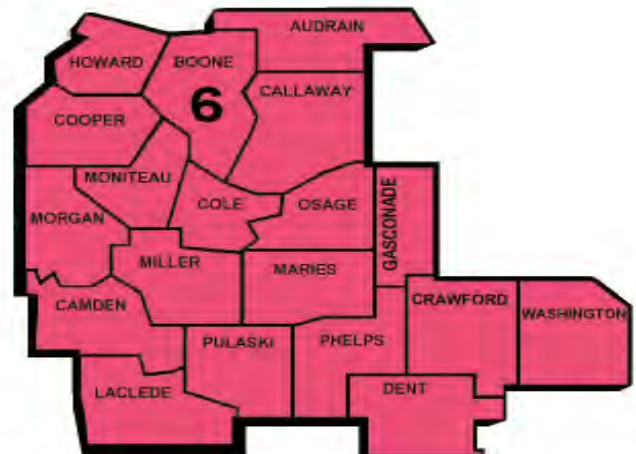
Mrs. Jones has no family and is unable to speak for herself. The Ombudsman volunteer noticed that Mrs. Jones was grimacing in pain, was restless, not eating much and had a bad odor coming from her mouth. The Ombudsman (who had prior professional dental experience) brought this information to the facility staff's attention. As a result, the facility administered medication and provided regular dental hygiene to Mrs. Jones. She appeared more comfortable and was eating better following this intervention.





Beth Simpson, Alice Jackson
Nicole King
Central MO Area Agency on Aging
Columbia, MO 65201
(573) 443-5823 FAX: (573) 875-8907

Mrs. Smith expressed concern to the Ombudsman volunteer about her pharmacy bill. She felt she was paying too much for one of the medications and gave the Ombudsman permission to assist her. The Ombudsman spoke with the administrator, who in turn contacted the pharmacy to obtain the billing information. The Ombudsman then encouraged the resident to contact the pharmacy herself to ask questions and express her concern. The Ombudsman agreed to be present during the call to provide support. The resident called the pharmacy and learned that the pharmacy had made a billing error and had over-charged her by not turning it in to her insurance company. The pharmacy also agreed to recheck past billing and send her a new bill reflecting the credit to her account.





Michelle Brown, Susan Lundquist
Mid-America Regional Council
300 Rivergate Ctr., 600 Broadway
Kansas City, MO 64105-1536
(816) 474-4240 FAX: (816) 421-7758

Ombudsman (paid staff) received a call from an upset social worker at a local skilled nursing facility. One of the residents he was working with was being verbally and physically abused by her guardian, who was a family member. The Ombudsman responded to the call by making an immediate visit to the resident. The resident was found to be alert and oriented. She described in detail her guardian's behaviors, her fear of her guardian, and the guardian's negative impact on her relationships with the facility staff that she depends on for her care. With the resident's permission, the Ombudsman worked with the facility staff to get the resident an attorney so the guardianship could be revoked or reassigned.





Ric Cavanagh, Cheryl Wilson
LTC Ombudsman Program
8702 Manchester Road
Brentwood, MO 63144
(314) 918-8222 FAX: (314) 918-9188

The Ombudsman volunteer visited the facility each week and always spoke to a resident's husband, who visited daily. On one visit, the Ombudsman noticed the resident's husband was not there. After speaking with facility staff, the staff notified the resident's family. The family went to the man's home and found him unconscious in the bathroom. The husband went to the hospital and then moved into the nursing facility for a few months of rehabilitation. His life may have been saved by the observations of an Ombudsman.

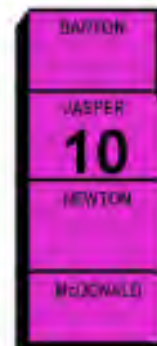




Carolyn McLaren
The Vantage Point
P.O. Box 3990
Joplin, MO 64803
(417) 781-7562 FAX: (417) 781-1609

Mr. Smith is a WWII veteran and entered the nursing home on the advice of the Veteran's Hospital. His physician said he needed therapy for a few weeks before returning home. Mr. Smith checked himself into the nursing home. After three weeks, he decided he was ready to go home. He checked himself out of the nursing home and returned to his home. Staff at the nursing home felt he should not go home and initiated guardianship proceedings. Within a week, the public administrator was appointed his guardian. Mr. Smith was placed in two different facilities before he contacted the Ombudsman Program for assistance. During this time, he had the guardianship transferred to his brother.

The Ombudsman (paid staff) contacted the Veterans Administration and Mr. Smith's brother. Both felt he was capable of handling his own affairs. Even though some of his decisions were unwise, he understood the consequences of his actions. Upon advice from the Ombudsman, Mr. Smith got letters from his physician and brother and sent these to the legal aid attorney who had agreed to help him. The guardianship was canceled and Mr. Smith is now living at home.



Overview of Complaint Highlights

This year, the Long-Term Care Ombudsman Program opened 5,161 cases and closed 4,780 cases. In those closed cases, the program worked on 6,245 complaints. The sources of those cases (91% from residents) and the breakdown of categories of complaints from the National Ombudsman Reporting System (NORS) are on the following two pages. Also included are the top nursing home and residential care facility complaints.

The top nursing home complaint for many years was the menu category. In the past 5 years, it has dropped to the number 3 complaint, and is replaced with categories that suggest residents feel there are not enough staff working in the nursing homes to respond to their needs.

Anecdotally, the feeling among Ombudsman staff is that the problems and issues brought to the program have become more difficult to resolve. For instance, over 10 years ago the program rarely dealt with issues of guardianship, financial exploitation, feeding tubes, and ventilator dependent residents. Now, these types of issues take many hours of work and test even the most skilled Ombudsman's ability to mediate, negotiate and assist in the resolution of the issue.

The Ombudsman staff work closely with many parties to resolve issues to the satisfaction of the resident themselves: family members, friends, facility staff, health care professionals outside the facility, and the surveyors and inspectors. 69% of complaints are resolved in which the resident is fully or partially satisfied.

Perhaps the hardest and most difficult conversation with a resident is when they talk about an issue, but because of a fear of retaliation, or some other reason, do not give the Ombudsman permission to work on the issues. This occurs 6% of the time.

FFY 2004 Complaint Highlights

Missouri Long-Term Care Ombudsman Program
Federal Fiscal Year 2004
October 2003 - September 2004

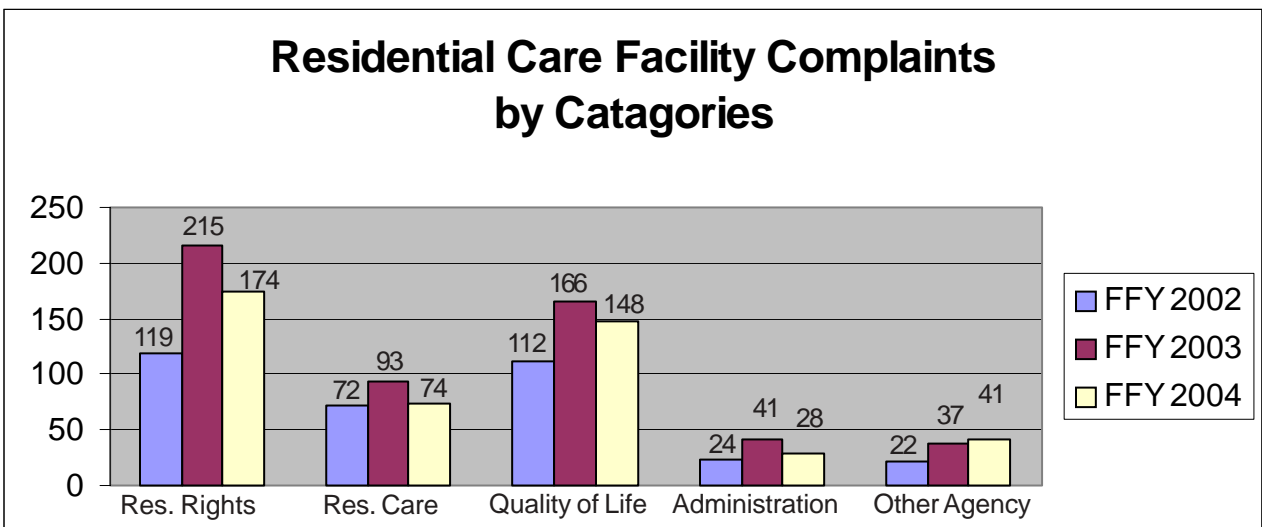
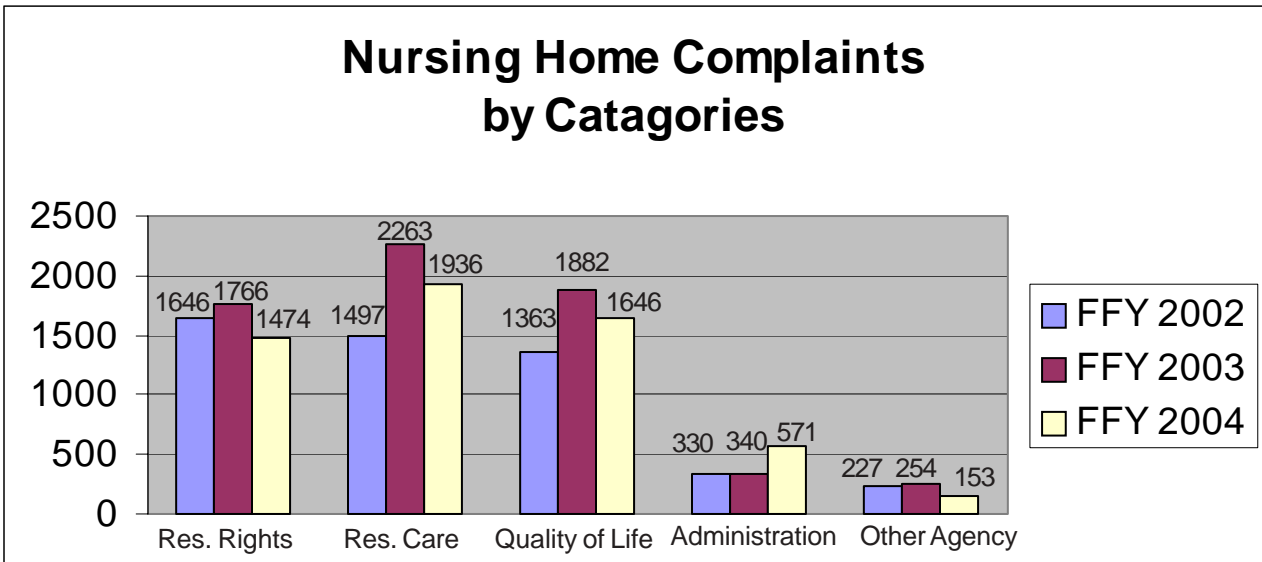
Top 10 Complaints Nursing Homes

Complaint Category	Number of Complaints
#1 Call Lights, response to requests for assistance	521
#2 Staff unresponsive, unavailable	341
#3 Menu - quantity, quality, variation, choice, etc.	278
#4 Medications - administration, organization	269
#5 Personal property - lost, stolen, destroyed, etc.	225
#6 Dignity, respect - staff attitudes	197
#7 Personal hygiene (includes oral hygiene)	182
#8 Exercise choice and/or civil rights	170
#9 Resident conflict, including roommates	131
#10 Shortage of staff	130
#10 Accidental or injury of unknown origin; falls	130

Top 5 Complaints Residential Care Facilities

Complaint Category	Number of Complaints
#1 Menu - quantity, quality, variation, choice, etc.	59
#2 Discharge/eviction- planning, notice, procedure	28
#3 Dignity, respect - staff attitudes	25
#4 Personal property - lost, stolen, destroyed, etc.	22
#5 Activities - choice and appropriateness	20

Complaint Highlights: A Three Year Comparison



STATE OF MISSOURI ANNUAL LONG-TERM CARE OMBUDSMAN PROGRAM REPORT FEDERAL FISCAL YEAR 2004

Cases, Complainants and Complaints

A. Provide total number of cases opened during reporting period:

5,161

B. Provide the number of cases closed, by type of facility/setting, which were received from the types of complainants listed below:

Complainants	Nursing Facility	RCF	Other Settings
Resident	4,054	292	2
Relative / Friend of resident	236	26	0
Non-Relative/Guardian	13	1	0
Ombudsman/Volunteer	77	4	0
Facility Administration	36	10	0
Other medical; Physician	10	0	0
Rep. of other health agency	11	2	0
Unknown / Anonymous	6	0	0
Other	0	0	0

Total number of cases closed during the reporting period:

4,780

C. For cases which were closed during the reporting period (those counted in B above), provide the total number of complaints received:

6,245

Ombudsman Complaint Categories

Resident Rights

A. Abuse, gross neglect, exploitation

- | | |
|---|-------------------------------------|
| 1 | Abuse, physical |
| 2 | Abuse, sexual |
| 3 | Abuse, verbal |
| 4 | Financial exploitation |
| 5 | Gross neglect |
| 6 | Resident-to-resident physical abuse |
| 7 | Other |

B. Access to information by resident

- | | |
|----|--|
| 8 | Access to own records |
| 9 | Access to ombudsman/visitors |
| 10 | Access to facility survey |
| 11 | Information regarding advance directives |
| 12 | Information regarding medical condition |
| 13 | Information regarding rights, benefits |
| 14 | Info communicated in understandable language |
| 15 | Other |

C. Admission, transfer, discharge, eviction

- | | |
|----|--|
| 16 | Admission contract/procedure |
| 17 | Appeal process |
| 18 | Bed hold - written notice, refusal to readmit |
| 19 | Discharge/eviction - planning, notice |
| 20 | Discrimination in admission due to condition, disability |
| 21 | Discrimination in admission due to Medicaid status |
| 22 | Room assignment/room change/intra-facility transfer |
| 23 | Other |

D. Autonomy, choice, preference, rights, privacy

- | | |
|----|--|
| 24 | Choose personal physician, pharmacy |
| 25 | Confinement in facility against will |
| 26 | Dignity, respect, - staff attitude |
| 27 | Exercise preference/choice and or/civil/religious rights |
| 28 | Exercise right to refuse care/treatment |
| 29 | Language barrier in daily routine |
| 30 | Participate in care planning by resident or surrogate |
| 31 | Privacy - telephone, visitors |

<u>Nursing Facility</u>	<u>RCF</u>
38	2
6	1
37	5
16	1
16	0
17	1
12	2
27	3
8	2
0	0
1	1
29	2
112	14
3	0
9	1
6	0
2	1
8	0
110	28
2	0
2	0
61	3
9	1
9	2
56	5
197	25
170	15
23	1
3	1
14	0
55	5

Resident Rights - Con't

- 32 Privacy in treatment, confidentiality
- 33 Response to complaints
- 34 Reprisal, retaliation
- 35 Other

E. Financial, property (except for financial exploitation)

- 36 Billing charges - notice, approval, wrong or denied
- 37 Personal funds - access/information denied
- 38 Personal property lost, stolen, used by others, destroyed
- 39 Other

Resident Care

F. Care

- 40 Accidental or injury of unknown origin, improper handling
- 41 Call lights, response to calls for assistance
- 42 Care plan/resident assessment
- 43 Contracture
- 44 Medication
- 45 Personal hygiene
- 46 Physician services
- 47 Pressure sores
- 48 Symptoms unattended
- 49 Toileting, incontinent care
- 50 Tubes - neglect of catheter, NG tube
- 51 Wandering, failure to accommodate/monitor
- 52 Other

G. Rehabilitating or maintenance of function

- 53 Assistive devices or equipment
- 54 Bowel and bladder training
- 55 Dental Services
- 56 Mental health
- 57 Range of motion/ambulation
- 58 Therapies - physical, occupational, speech
- 59 Vision and hearing
- 60 Other

H. Restraints - chemical and physical

- 61 Physical restraint
- 62 Psychoactive drugs
- 63 Other

<u>Nursing Facility</u>	<u>RCF</u>
14	0
15	2
32	2
14	2
39	13
65	10
225	22
12	1
130	9
521	7
58	2
3	0
269	18
182	6
62	5
35	0
120	4
116	2
9	1
47	1
86	2
116	7
4	1
37	1
9	1
24	0
55	1
44	4
3	2
5	0
0	0
1	0

Quality of Life

I. Activities and social services

64	Activities
65	Community interaction/transportation
66	Resident conflict
67	Social services
68	Other

J. Dietary

69	Assistance in eating or assistive devices
70	Fluid availability/hydration
71	Menu/food service
72	Snacks
73	Temperature
74	Therapeutic diet
75	Weight loss due to inadequate nutrition
76	Other

K. Environment

77	Air/environment
78	Cleanliness, pests, general housekeeping
79	Equipment/building
80	Furnishings, storage for residents
81	Infection control
82	Laundry
83	Odors
84	Space for activities
85	Supplies and linens
86	Other

Administration

L. Policies, procedures, attitudes, resources

87	Abuse investigation/reporting
88	Administrator unresponsive, unavailable
89	Grievance procedure
90	Inadequate record keeping
91	Insufficient funds to operate
92	Operator inadequately trained
93	Offering inappropriate level of care
94	Resident/Family council interfered with by facility
95	Other

<u>Nursing Facility</u>	<u>RCF</u>
91	20
36	9
131	8
33	1
20	1
60	1
127	3
278	59
79	1
49	3
27	2
7	0
23	4
98	9
101	3
117	10
24	1
8	1
102	3
91	2
7	0
55	0
45	2
1	0
4	2
20	1
4	0
0	0
0	0
3	2
2	0
3	0

Administration - Con't

M. Staffing

96	Communication, language barriers
97	Shortage of staff
98	Staff training, lack of screening
99	Staff turn-over
100	Staff unresponsive, unavailable
101	Supervision
102	Other

<u>Nursing Facility</u>	<u>RCF</u>
15	0
130	1
53	3
8	15
341	8
9	0
15	1
2	0
4	1
0	0
0	0
0	0
0	0
0	0
0	0
1	0
1	1
1	1
0	0
3	2
2	1
3	0
2	1
1	0
1	0
35	11
15	1
54	15
4	0
1	0

Outside Agencies, Systems

N. Certification/Licensing Agency

103	Access to information
104	Complaint, response to
105	Decertification/closure
106	Intermediate sanctions
107	Survey process
108	Survey process - ombudsman participation
109	Transfer or eviction hearing
110	Other

O. State Medicaid Agency

111	Access to information, application
112	Denial of eligibility
113	Non-covered services
114	Personal needs allowance
115	Services
116	Other

P. Systems/Others

117	Abuse/neglect/abandonment by family member
118	Bed shortage - placement
119	Board and care/regulation
120	Family conflict; interference
121	Financial exploitation by family
122	Legal - guardianship, POA, wills
123	Medicare
124	PASARR

Outside Agencies, Systems - Con't

125	Resident's physician not available
126	Protective Service Agency
127	SSA, SSI, VA, and other benefits
128	Other
Q. Complaints About Services in Other Settings	
129	Home Care
130	Hospital or hospice
131	Public or other congregate housing
132	Services from outside provider
133	Other

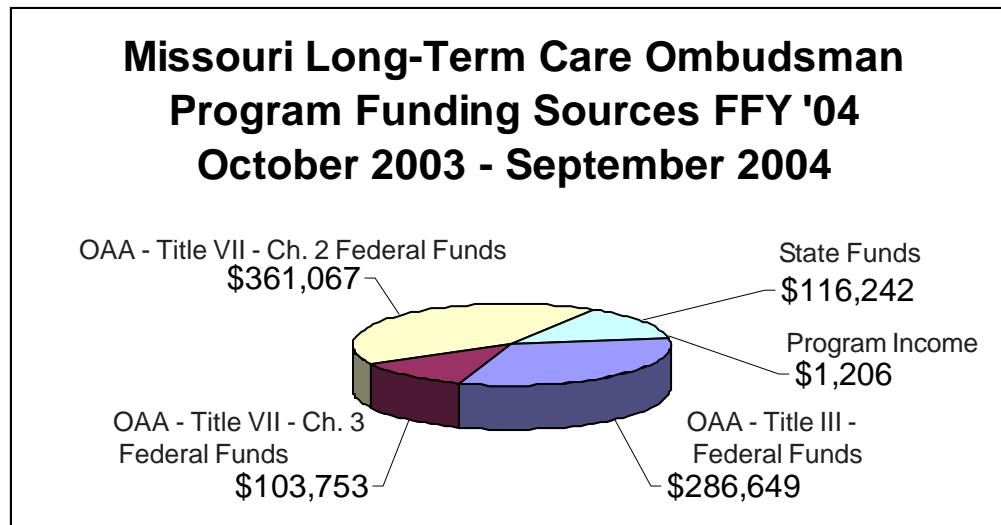
TOTAL COMPLAINTS

<u>Nursing Facility</u>	<u>RCF</u>
4	0
2	0
13	3
2	3
0	0
1	0
0	0
0	1
1	0
5,780	465

Action on Complaints	Nursing Facility	RCF
1. Disposition		
a. Legal	15	2
b. Not Resolved (to resident's satisfaction)	1,236	37
c. Permission Withheld (by resident)	363	35
d. Referred to other agency - no report	102	10
e. Referred to other agency	2	0
f. No action	110	23
g. Partially resolved (to resident's satisfaction)	838	158
h. Fully resolved (to resident's satisfaction)	3,114	200
Total:	5,780	465

TYPE OF FACILITY	NO. OF FACILITIES	NO. OF BEDS	CENSUS
Skilled Nursing Homes	501	54,445	39,761
Intermediary Care Facilities	42	2,447	1,586
Residential Care Facilities II	361	15,338	10,177
Residential Care Facilities I	274	6,332	4,031
Veterans Homes	7	1,350	N/A
TOTAL	1,185	79,912	55,555
*Dept. of Health & Senior Services: Section for Long-Term Care, December 2004			
**Missouri Veterans Commission, March 2005			

Ombudsman Program Funding



Missouri Long-Term Care Ombudsman Program Funding Sources

Federal - Title VII, Chapter II	\$286,649	32.99%
Federal - Title VII, Chapter III	\$103,753	11.94%
Federal - Title III	\$361,067	41.55%
State Funds	\$116,242	13.38%
Local - Program Income	\$1,206	0.14%
Total Program Funding	\$868,918	100.00%
Local - Cash/in-kind (value of volunteer time)	\$316,511	
Total Program Funding (with in-kind)	\$1,185,429	

The Department of Health and Senior Services administers the federal and state funding that supports the Long-Term Ombudsman Program in Missouri.

*Approximately 72% of all funds are spent by the Area Agencies on Aging for operation of the 9 Regional Ombudsman Programs.

- **OAA** - Federal Older American's Act
- **Title VII** - Federal Vulnerable Elder Rights Protection Activities
 - **Chapter II** - Ombudsman Programs
 - **Chapter III** - Programs for Prevention of Elder Abuse, Neglect and Exploitation
- **Title III** - Federal Social Services (III-B) Funds for Ombudsman Activities

Ombudsman Program Recommendations

Assisted Living:

Missouri currently does not define “assisted living” in state statutes or regulations. The emergence of companies marketing “assisted living” residences has caused consumers and their families confusion. Missouri has licensed “Residential Care Facilities.” Because these new residences aren’t required to be licensed, there are no provisions regarding the rights of the individuals living in these facilities.

The LTC Ombudsman Program joined with 15 statewide stakeholders and developed recommendations for state statutes, regulations and best practices. The final report was presented to the Missouri Legislature in December 2004.

Guardianship:

The LTC Ombudsman Program continues to work on issues dealing with guardians. The issues range from guardians who do not communicate on a regular basis with their ward, don’t stay in contact with the long-term care facility, ignore the rights and preferences of wards, and to cases where the guardianship does not appear to be warranted.

There are multiple concerns with the guardianship system in the state.

- A. Each county has their own procedures and policies for granting guardianships as well as what level of follow-up (year end accounting of finances and other year end reporting) is required. Although Public Administrators have on-going training, there is no training or even very good resource material provided to family or friends who are appointed as guardian or conservator.
- B. Another issue of concern is for Medicaid residents of long-term care facilities who only receive \$30 (\$25 if living in an Residential Care Facility) each month for personal spending. The rest of their income goes to pay for their stay in the facility. When this \$30 is given to the guardian for their fees, this leaves the resident with no money to purchase such things as clothes, shoes, trips outside the facility, or any item not covered by the daily per diem of the facility.

The LTCOP believes that the various stakeholders of this issue across the state need to come together to develop a plan of action to ensure that guardians are appropriately trained and that there is sufficient oversight provided.

Coverage and Accessibility of the Program to Residents:

The LTCOP utilizes volunteers in order to provide coverage of Ombudsman services to residents of long-term care facilities. Even with the 300 plus individuals serving as Ombudsmen, there are many facilities that do not receive regular visits from either staff or volunteers. Because of the intense nature of the tasks and responsibilities of volunteers, the number of volunteers in the program is directly tied to the number of paid staff supervising them. Historically, we have determined that one staff person can adequately supervise about 40 volunteers. Therefore, until the program has more paid staff, the number of volunteers will likely not grow much beyond the current number.

The program has and will continue to look for new and different funding sources. Several of the regional programs receive funds from their local United Way organizations. Other programs write and receive funding from charitable organizations and foundations.

In 1994, Congress asked the Institute of Medicine to conduct a study of the national LTC Ombudsman Program. The report, "Real People, Real Problems" was published in 1995. This report contained many recommendations that would strengthen the Ombudsman Program. One suggestion concerned the number of paid staff that is necessary to have an effective and efficient Ombudsman Program. The report recommended one staff person for every two thousand beds. Below is the ratio of regional staff to beds.

AAA	Number of Beds	Ombudsman Staff FTE	Current Staff to Bed Ratio	Number of Staff Needed to Reach Ideal Ratio of 1 Staff / 2000 Beds
Mideast	18,579	2	9,290	4.7
St. Louis	4,823	1	4,823	2.4
MARC	11,139	1.75	6,365	3.2
Southwest	9,085	1.5	6,057	3
Central MO	8,639	3	2,880	1.4
Southeast	9,030	1.5	6,020	3
Northwest	5,475	1.9	2,882	1.4
Care Connection	5,389	1.5	3,593	1.8
Northeast	4,709	1.5	3,139	1.6
Vantage Point	2,461	1	2,461	1.2
Total	79,329 *includes VA beds			

**Bed count as of 3/29/05

Appendices

Appendix A:	Federal Older Americans Act.....	40
Appendix B:	Missouri Long-Term Care Ombudsman Program State Statutes.....	49
Appendix C:	OBRA 1987 Summary.....	54
Appendix D:	Resident Rights in Missouri.....	57
Appendix E:	Resources available from the Long-Term Care Ombudsman Program.....	59

VII. Older American's Act of 2000: LTC Ombudsman Program

TITLE 42—THE PUBLIC HEALTH AND WELFARE

CHAPTER 35—PROGRAMS FOR OLDER AMERICANS

SUBCHAPTER XI—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

Part A—State Provisions

subpart ii—ombudsman programs

Sec. 3058f. Definitions

As used in this subpart:

(1) Office

The term “Office” means the office established in section 3058g(a)(1)(A) of this title.

(2) Ombudsman

The term “Ombudsman” means the individual described in section 3058g(a)(2) of this title.

(3) Local Ombudsman entity

The term “local Ombudsman entity” means an entity designated under section 3058g(a)(5)(A) of this title to carry out the duties described in section 3058g(a)(5)(B) of this title with respect to a planning and service area or other sub-state area.

(4) Program

The term “program” means the State Long-Term Care Ombudsman program established in section 3058g(a)(1)(B) of this title.

(5) Representative

The term “representative” includes an employee or volunteer who represents an entity designated under section 3058g(a)(5)(A) of this title and who is individually designated by the Ombudsman.

(6) Resident

The term “resident” means an older individual who resides in a long-term care facility.

(Pub. L. 89-73, title VII, Sec. 711, as added Pub. L. 102-375, title VII, Sec. 702, Sept. 30, 1992, 106 Stat. 1275.)

Representative

**The term “representative”
includes an employee or volunteer**

Part A—State Provisions
subpart ii—ombudsman programs

Sec. 3058g. State Long-Term Care Ombudsman program

(a) Establishment

(1) In general

In order to be eligible to receive an allotment under section 3058b of this title from funds appropriated under section 3058a of this title and made available to carry out this subpart, a State agency shall, in accordance with this section—

- (A) establish and operate an Office of the State Long-Term Care Ombudsman; and
- (B) carry out through the Office a State Long-Term Care Ombudsman program.

(2) Ombudsman

The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy.

(3) Functions

The Ombudsman shall serve on a full-time basis, and shall, personally or through representatives of the Office—

(A) identify, investigate, and resolve complaints that—

(i) are made by, or on behalf of, residents; and

(ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of—

(I) providers, or representatives of providers, of long-term care services;

(II) public agencies; or

(III) health and social service agencies;

(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

(C) inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A)(ii) or services described in subparagraph (B);

(D) ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;

(E) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;

(G) (i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State;

(ii) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and

(iii) facilitate public comment on the laws, regulations, policies, and actions;

(H) (i) provide for training representatives of the Office;

(ii) promote the development of citizen organizations, to participate in the program; and

(iii) provide technical support for the development of resident and family councils to protect the well-being and rights of residents; and

(I) carry out such other activities as the Assistant Secretary determines to be appropriate.

(4) Contracts and arrangements

(A) In general

Except as provided in subparagraph (B), the State agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(B) Licensing and certification organizations; associations

The State agency may not enter into the contract or other arrangement described in subparagraph (A) with—

(i) an agency or organization that is responsible for licensing or certifying long-term care services in the State; or

(ii) an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals.

(5) Designation of local Ombudsman entities and representatives

(A) Designation

In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.

(B) Duties

An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency—

- (i) provide services to protect the health, safety, welfare \1\ and rights of residents;

\1\ So in original. Probably should be followed by a comma.

- (ii) ensure that residents in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance;**
- (iii) identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents;**

- (iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

- (v) (I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well- being of residents; and

- (II) facilitate the ability of the public to comment on the laws, regulations, policies, and actions;

- (vi) support the development of resident and family councils; and

- (vii) carry out other activities that the Ombudsman determines to be appropriate.

(C) Eligibility for designation

Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall—

- (i) have demonstrated capability to carry out the responsibilities of the Office;
- (ii) be free of conflicts of interest and not stand to gain financially through an action or potential action brought on behalf of individuals the Ombudsman serves;
- (iii) in the case of the entities, be public or nonprofit private entities; and
- (iv) meet such additional requirements as the Ombudsman may specify.

(D) Policies and procedures

(i) In general

The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.

(ii) Policies

In a case in which the entities are grantees, or the representatives are employees, of area agencies on aging, the State agency shall develop

the policies in consultation with the area agencies on aging. The policies shall provide for participation and comment by the agencies and for resolution of concerns with respect to case activity.

(iii) Confidentiality and disclosure

The State agency shall develop the policies and procedures in accordance with all provisions of this part regarding confidentiality and conflict of interest.

(b) Procedures for access

(1) In general

The State shall ensure that representatives of the Office shall have—

(A) access to long-term care facilities and residents;

(B) (i) appropriate access to review the medical and social records of a resident, if—

(I) the representative has the permission of the resident, or the legal representative of the resident; or

(II) the resident is unable to consent to the review and has no legal representative; or

(ii) access to the records as is necessary to investigate a complaint if—

(I) a legal guardian of the resident refuses to give the permission;

(II) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and

(III) the representative obtains the approval of the Ombudsman;

(C) access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long-term care facilities; and

(D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities.

(2) Procedures

The State agency shall establish procedures to ensure the access described in paragraph (1).

(c) Reporting system

The State agency shall establish a statewide uniform reporting system to—

- (1) collect and analyze data relating to complaints and conditions in long-term care facilities and to residents for the purpose of identifying and resolving significant problems; and
- (2) submit the data, on a regular basis, to—
 - (A) the agency of the State responsible for licensing or certifying long-term care facilities in the State;
 - (B) other State and Federal entities that the Ombudsman determines to be appropriate;
 - (C) the Assistant Secretary; and
 - (D) the National Ombudsman Resource Center established in section 3012(a)(21) \2\ of this title.

(d) Disclosure

(1) In general

The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the program, including records described in subsection (b)(1) or (c) of this section.

(2) Identity of complainant or resident

The procedures described in paragraph (1) shall—

- (A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and

(B) prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless—

(i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;

- (ii) (I) the complainant or resident gives consent orally; and
(II) the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish;
or**

(iii) the disclosure is required by court order.

(e) Consultation

In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long-term care.

(f) Conflict of interest

The State agency shall—

(1) ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5) of this section, is subject to a conflict of interest;

(2) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;

(3) ensure that the Ombudsman—

(A) does not have a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;

(B) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;

(C) is not employed by, or participating in the management of, a long-term care facility; and

(D) does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; and

(4) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as—

(A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and

(B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.

(g) Legal counsel

The State agency shall ensure that—

(1) (A) adequate legal counsel is available, and is able, without conflict of interest, to—

(i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and

(ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and

- (B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Ombudsman or such a representative; and
- (2) the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.

(h) Administration

The State agency shall require the Office to—

(1) prepare an annual report—

(A) describing the activities carried out by the Office in the year for which the report is prepared;

(B) containing and analyzing the data collected under subsection (c) of this section;

(C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;

(D) containing recommendations for—

(i) improving quality of the care and life of the residents; and

(ii) protecting the health, safety, welfare, and rights of the residents;

(E) (i) analyzing the success of the program including success in providing services to residents of board and care facilities and other similar adult care facilities; and

(ii) identifying barriers that prevent the optimal operation of the program; and

(F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers;

(2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulations, and policies as the Office determines to be appropriate;

(3) (A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding—

(i) the problems and concerns of older individuals residing in long-term care facilities;

and

(ii) recommendations related to the problems and concerns; and

(B) make available to the public, and submit to the Assistant Secretary, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long-term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);

(4) strengthen and update procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Director of the Office of Long-Term Care Ombudsman Programs, in consultation with representatives of citizen groups, long-term care providers, and the Office, that—

- (A) specify a minimum number of hours of initial training;
- (B) specify the content of the training, including training relating to—
 - (i) Federal, State, and local laws, regulations, and policies, with respect to long-term care facilities in the State;
 - (ii) investigative techniques; and
 - (iii) such other matters as the State determines to be appropriate; and
- (C) specify an annual number of hours of in-service training for all designated representatives;

(5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) of this section unless the representative—

- (A) has received the training required under paragraph (4); and
- (B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;

(6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under—

- (A) subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15041 et seq.]; and
- (B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 \3\ (42 U.S.C. 10801 et seq.);

(7) coordinate, to the greatest extent possible, ombudsman services with legal assistance provided under section 3026(a)(2)(C) of this title, through adoption of memoranda of understanding and other means;

(8) coordinate services with State and local law enforcement agencies and courts of competent jurisdiction; and

(9) permit any local Ombudsman entity to carry out the responsibilities described in paragraph (1), (2), (3), (6), or (7).

(i) Liability

The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

(j) Noninterference

The State shall—

(1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Assistant Secretary) shall be unlawful;

(2) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and

(3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

<http://www.moga.state.mo.us/statutes/chapters/chap660.htm>

Missouri Revised Statutes
Chapter 660
Department of Social Services

August 28, 2003

Missouri Statutes: Long-Term Care Ombudsman

Definitions.

660.600. As used in sections 660.600 to 660.608, the following terms mean:

- (1) “Division”, the division of aging of the department of social services;
- (2) “Long-term care facility”, any facility licensed pursuant to chapter 198, RSMo, and long-term care facilities connected with hospitals licensed pursuant to chapter 197, RSMo;
- (3) “Office”, the office of the state ombudsman for long-term care facility residents;
- (4) “Ombudsman”, the state ombudsman for long-term care facility residents;
- (5) “Regional ombudsman coordinators”, designated individuals working for, or under contract with, the area agencies on aging, and who are so designated by the area agency on aging and certified by the ombudsman as meeting the qualifications established by the division;
- (6) “Resident”, any person who is receiving care or treatment in a long-term care facility.

(L. 1991 H.B. 444 § 1)

* The statutes have not been corrected to reflect that the Long-Term Care Ombudsman Program is in the Department of Health and Senior Services.

Office of state ombudsman for long-term care facility residents created in department of health and senior services—purpose—powers and duties.

660.603. 1. There is hereby established within the department of health and senior services the “Office of State Ombudsman for Long-Term Care Facility Residents”, for the purpose of helping to assure the adequacy of care received by residents of long-term care facilities and to improve the quality of life experienced by them, in accordance with the federal Older Americans Act, 42 U.S.C. 3001, et seq.

2. The office shall be administered by the state ombudsman, who shall devote his or her entire time to the duties of his or her position.

3. The office shall establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of residents of long-term care facilities relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies or of social service agencies, which may adversely affect the health, safety, welfare or rights of such residents.

4. The department shall establish and implement procedures for resolution of complaints. The ombudsman or representatives of the office shall have the authority to:

(1) Enter any long-term care facility and have access to residents of the facility at a reasonable time and in a reasonable manner. The ombudsman shall have access to review resident records, if given permission by the resident or the resident’s legal guardian. Residents of the facility shall have the right to request, deny, or terminate visits with an ombudsman;

(2) Make the necessary inquiries and review such information and records as the ombudsman or representative of the office deems necessary to accomplish the objective of verifying these complaints.

5. The office shall acknowledge complaints, report its findings, make recommendations, gather and disseminate information and other material, and publicize its existence.

6. The ombudsman may recommend to the relevant governmental agency changes in the rules and regulations adopted or proposed by such governmental agency which do or may adversely affect the health, safety, welfare, or civil or human rights of any resident in a facility. The office shall analyze and monitor the development and implementation of federal, state and local laws, regulations and policies with respect to long-term care facilities and services in the state and shall recommend to the department changes in such laws, regulations and policies deemed by the office to be appropriate.

7. The office shall promote community contact and involvement with residents of facilities through the use of volunteers and volunteer programs directed by the regional ombudsman coordinators.

8. The office shall develop and establish by *regulation* of the department statewide policies and standards for implementing the activities of the ombudsman program, including the qualifications and the training of regional ombudsman coordinators and ombudsman volunteers.

9. The office shall develop and propose programs for use, training and coordination of volunteers in conjunction with the regional ombudsman coordinators and may:

- (1) Establish and conduct recruitment programs for volunteers;
- (2) Establish and conduct training seminars, meetings and other programs for volunteers; and
- (3) Supply personnel, written materials and such other reasonable assistance, including publicizing their activities, as may be deemed necessary.

10. The regional ombudsman coordinators and ombudsman volunteers shall have the authority to report instances of abuse and neglect to the ombudsman hotline operated by the department.

11. If the regional ombudsman coordinator or volunteer finds that a nursing home administrator is not willing to work with the ombudsman program to resolve complaints, the state ombudsman shall be notified. The department shall establish procedures by rule in accordance with chapter 536, RSMo, for implementation of this subsection.

12. The office shall prepare and distribute to each facility written notices which set forth the address and telephone number of the office, a brief explanation of the function of the office, the procedure to follow in filing a complaint and other pertinent information.

13. The administrator of each facility shall ensure that such written notice is given to every resident or the resident's guardian upon admission to the facility and to every person already in residence, or to his guardian. The administrator shall also post such written notice in a conspicuous, public place in the facility in the number and manner set forth in the regulations adopted by the department.

14. The office shall inform residents, their guardians or their families of their rights and entitlements under state and federal laws and rules and regulations by means of the distribution of educational materials and group meetings.

Confidentiality of ombudsman's files and records, exceptions, violations, penalty.

660.605. 1. Any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless:

(1) Such complainant or resident, or the complainant's or resident's legal representative, consents in writing to such disclosure; or

(2) Such disclosure is required by court order.

2. Any representative of the office conducting or participating in any examination of a complaint who shall knowingly and willfully disclose to any person other than the office, or those authorized by the office to receive it, the name of any witness examined or any information obtained or given upon such examination, shall be guilty of a class A misdemeanor. However, the ombudsman conducting or participating in any examination of a complaint shall disclose the final result of the examination to the facility with the consent of the resident.

3. Any statement or communication made by the office relevant to a complaint received by, proceedings before or activities of the office and any complaint or information made or provided in good faith by any person, shall be absolutely privileged and such person shall be immune from suit.

4. The office shall not be required to testify in any court with respect to matters held to be confidential in this section except as the court may deem necessary to enforce the provisions of sections 660.600 to 660.608, or where otherwise required by court order.

(L. 1991 H.B. 444 § 3)

Immunity from liability for official duties for staff and volunteers—information furnished office, no reprisals against employees of facilities or residents, violations, penalty.

660.608. 1. Any regional coordinator or local program staff, whether an employee or an unpaid volunteer, shall be treated as a representative of the office. No representative of the office shall be held liable for good faith performance of his official duties under the provisions of sections 660.600 to 660.608 and shall be immune from suit for the good faith performance of such duties. Every representative of the office shall be considered a state employee under section 105.711, RSMo.

2. No reprisal or retaliatory action shall be taken against any resident or employee of a long-term care facility for any communication made or information given to the office. Any person who knowingly or willfully violates the provisions of this subsection shall be guilty of a class A misdemeanor. Any person who serves or served on a quality assessment and assurance committee required under 42 U.S.C. sec. 1396r(b)(1)(B) and 42 CFR sec. 483.75(r), or as amended, shall be immune from civil liability only for acts done directly as a member of such committee so long as the acts are performed in good faith, without malice and are required by the activities of such committee as defined in 42 CFR sec. 483.75(r).

(L. 1991 H.B. 444 § 4)

http://www.ltombudsman.org/ombpublic/49_346_1023.cfm

OBRA '87

Federal Nursing Home Reform Act from the Omnibus Budget Reconciliation Act of 1987 or simply

OBRA '87 SUMMARY

Developed by Hollis Turnham, Esquire

In 1987, President Ronald Reagan signed into law the first major revision of the federal standards for nursing home care since the 1965 creation of both Medicare and Medicaid 42 U.S.C.1396r, 42 U.S.C. 1395i-3, 42 CFR 483. The landmark legislation changed forever society's legal expectations of nursing homes and their care. Long term care facilities wanting Medicare or Medicaid funding are to provide services so that each resident can "attain and maintain her highest practicable physical, mental, and psycho-social well-being."

Medicaid Provision: 42 U.S.C. 1396r(b)(4) <http://www4.law.cornell.edu/uscode/42/1396r.html>

Medicare Provision: 42 U.S.C. 1395i-3(b)(4) <http://www4.law.cornell.edu/uscode/42/1395i-3.html>

Federal Regulations: 42 CFR 483.25 http://www.access.gpo.gov/nara/cfr/waisidx_02/42cfr483_02.html (Scroll down to retrieve a specific title part and section as text or pdf file.)

WHAT IS OBRA '87?

The Federal Nursing Home Reform Act or OBRA '87 creates a set of national minimum set of standards of care and rights for people living in certified nursing facilities. This landmark federal legislation comes by its common name "OBRA" through the legislative process. Congress, then and now, usually completes a huge measure of its budgetary and substantive work in one large bill. The bill accomplishing that function in 1987 was entitled the Omnibus Budget Reconciliation Act of 1987 or "OBRA '87." The separate Federal Nursing Home Reform Act along with many other separate bills was "rolled into" one bill to insure final passage of all the elements.

These minimum federal health and care requirements for nursing homes are to be delivered through variety of established protocols within nursing homes and regulatory agencies. And as minimum standards, Long-Term Care Ombudsmen should view OBRA as a baseline that should be built upon to reach not only resident “well-being” but also happiness and fulfillment.

OBRA also recognized the unique and important role performed by the LTCOP for nursing home residents. The federal Medicaid and Medicaid legislation included those distinct advocacy roles and subsequent regulations and other guidance has given LTCOPs additional tools to serve resident interests.

The changes OBRA brought to nursing home care are enormous. Some of the most important resident provisions include:

- Emphasis on a resident’s quality of life as well as the quality of care;
- New expectations that each resident’s ability to walk, bathe, and perform other activities of daily living will be maintained or improved absent medical reasons;
- A resident assessment process leading to development of an individualized care plan 75 hours of training and testing of paraprofessional staff;
- Rights to remain in the nursing home absent non-payment, dangerous resident behaviors, or significant changes in a resident’s medical condition;
- New opportunities for potential and current residents with mental retardation or mental illnesses for services inside and outside a nursing home;
- A right to safely maintain or bank personal funds with the nursing home; Rights to return to the nursing home after a hospital stay or an overnight visit with family and friends The right to choose a personal physician and to access medical records;
- The right to organize and participate in a resident or family council;
- The right to be free of unnecessary and inappropriate physical and chemical restraints;
- Uniform certification standards for Medicare and Medicaid homes;
- Prohibitions on turning to family members to pay for Medicare and Medicaid services;
- and New remedies to be applied to certified nursing homes that fail to meet minimum federal standards.

OBRA set in motion forces that changed the way state inspectors approached all their visits to nursing homes. Inspectors no longer spend their time exclusively with staff or with facility records. Conversations with residents and families are a prime time survey event. Observing dining and medications administration are a focal point of every annual inspection.

Under OBRA, Long Term Care Ombudsman Programs have defined roles to fulfill and tools to use in the annual inspection process to nurture the conversations between residents/families and inspectors and life in the nursing home.

HOW DID OBRA '87 COME ABOUT?

The federal Nursing Home Reform Act became law with growing public concern with the poor quality of care in too many nursing homes and the concerted advocacy of advocates, consumers, provider associations, and health care professionals. Congress asked the Institute of Medicine (IoM) to study how to better regulate the quality of care in the nation's Medicaid and Medicare certified nursing homes.

In its 1986 report Improving the Quality of Care in Nursing Homes, the expert panel recommended:

- A stronger federal role in improving quality;
- Revisions in performance standards, the inspection process, and the remedies to improve nursing home services;
- Better training of nursing home staff;
- Improved assessment of resident needs; and
- A dynamic and evolutionary regulatory process.
- Information can be found at: <http://www.nao.edu/books/0309026461>

In order to assure implementation of the IoM recommendations from the “blue ribbon panel,” the National Citizens’ Coalition for Nursing Home Reform organized the “Campaign for Quality Care” to support the federal reforms. National organizations representing consumers, nursing homes, and health care professionals worked together, and continue to work, to create consensus positions on major nursing home issues. Their consensus positions on the IoM report laid the foundation for the federal law.

OBRA has changed the care and lives of nursing home residents across America. There have been significant improvements in the comprehensiveness of care planning. Anti-psychotic drug use declined by 28-36% and physical restraint use was reduced by approximately 40%.

Several states have taken all or parts of OBRA ‘87 and made them state law for their licensed nursing homes or other kinds of long term care facilities.

Online Research: *The links to federal laws and regulations in this document have been made to the most reliable sources known to the Ombudsman Resource Center. Links to the Medicaid and Medicare laws are made to the Legal Information Institute maintained by Cornell University. The federal code of regulations are accessed here through the United States Government Printing Office.* If these resources do not meet your needs or you find better resources for federal legal research, please contact Center staff at ombudcenter@nccnhr.org

Missouri Long-Term Care Facility Resident Rights

(Condensed Version)

EVERY RESIDENT SHALL HAVE THE FOLLOWING RIGHTS:

BE FULLY INFORMED

You should receive a copy of all rules and regulations pertaining to your rights and responsibilities as a resident. You should be informed in writing of all matters relating to you, including services and charges not covered by the government or by the facility's daily rate. You are also entitled to know: results of inspections and surveys of the home and violations or deficiencies found; licensure approvals and/or disapprovals and responses of the home; procedures for receiving emergency care at hospitals or being transferred to other care facilities; names and addresses of every owner of the home; regulations for using chemical or physical restraints; and persons with authority to order the restraints; and methods for obtaining copies of information from your file.

PARTICIPATE IN YOUR CARE

You have the right to know your medical condition and the options available for treatment. You may refuse any of the options.

CHOOSE YOUR OWN DOCTOR

You may continue to use your own doctor or select another who will be responsible for your total care. If you prefer, the facility will assign a doctor.

REMAIN IN THE FACILITY

You can be discharged only for medical reasons, nonpayment of a bill, or the threat of physical harm. You must be given written notice 30 days in advance of the transfer or discharge. This notice must tell you why you are being discharged and how you can appeal.

VOICE GRIEVANCES

You may voice concerns and problems, along with recommended changes, to facility staff or outside representatives. Owners and staff of facilities are prohibited by law from retaliating if you complain. You should speak with the director of nursing or the administrator of the home if you encounter problems requiring immediate action. For non-emergencies, speak to the resident council or an ombudsman.

MANAGE YOUR OWN FINANCES

Whether you hold your money or have the facility keep track of it, nobody can tell you how to spend your personal funds. The operator of the home can help you manage your financial affairs.

BE FREE FROM ABUSE AND RESTRAINT

You should not be subjected to physical, sexual or emotional harm. Chemical or physical restraints should not be imposed for purposes of discipline or staff convenience. Restraints are only to be used as treatment for medical symptoms.

CONFIDENTIALITY

Medical, personal, social or financial affairs should be considered privileged information.

HAVE PRIVACY AND RESPECT

You have the right to privacy in medical treatment, personal care, telephone and mail communications, visits of family and meetings of resident groups. You should be treated with consideration and respect, with full recognition of your dignity and individuality. You should not be required to do things against your will.

COMMUNICATE FREELY

You may privately associate and communicate with persons of your choice. You may send and receive unopened mail.

PARTICIPATE IN ACTIVITIES

You may participate in social and religious activities, both inside and outside the facility. The facility should not require you to perform any duties or services.

KEEP YOUR POSSESSIONS

You may retain your personal possessions as space permits. On a quarterly basis, you are entitled to receive an accounting for all your personal possessions or funds entrusted to the facility.

RETAIN MARITAL PRIVILEGES

You have the right to private visits with your spouse and may share a room with your spouse if you are both residents.

PURCHASE GOODS AND SERVICES

You should receive an itemized bill for all goods and services provided by the facility. You may purchase or rent goods or services not included in your daily or monthly rate.

Resources

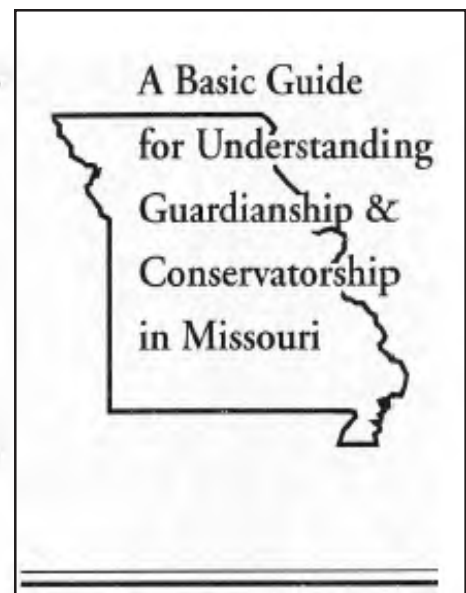
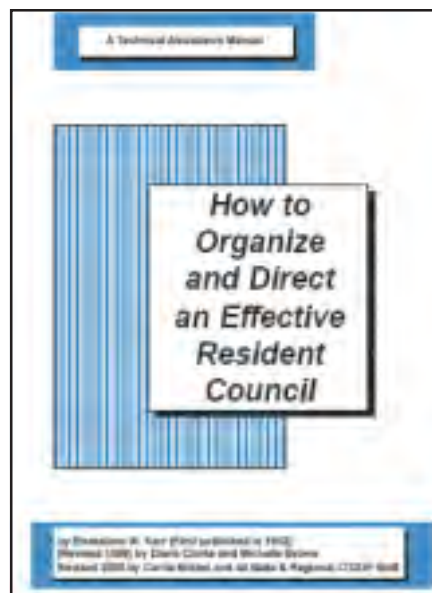
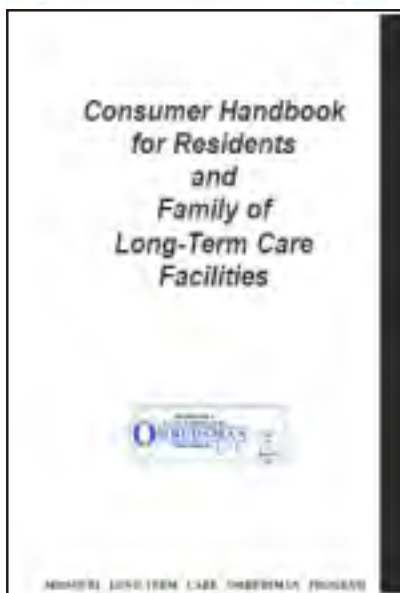
The Missouri Long-Term Care Ombudsman Program provides many resources to residents of long-term care facilities, their families, and facility staff. Information on Resident Rights, Selecting an Alzheimer's Special Care Unit, Loss and Theft in facilities, Abuse and Neglect, and many other topics are available.

Information can be located on the web at:

www.dhss.mo.gov/Ombudsman/

or call our Toll Free number:

1-800-309-3282



Loss & Theft

How to prevent it
and
What to do when it happens
in
long-term care facilities



Advocate for Residents
1-800-309-3282

Guide to Selecting an Alzheimer's Special Care Unit



Special Care Units are in
Long-Term Care
Facilities and provide
environments,
programs, and staff
specifically designed for
the care needs of
residents with
Alzheimer's Disease

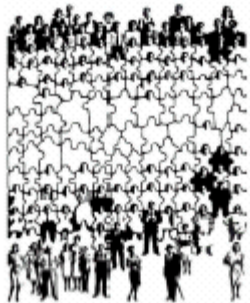
Who What & Where of Medicare, Medicaid and Veterans Benefits in Missouri

Medicare, Medicaid & Veterans
Benefits are complicated
programs. When you have a
question about either program,
half of the battle is finding
someone who can give you an
answer.

The Missouri
Department of
Health and Senior
Services provides
this helpful guide to
aid you in your
search.



The Role Of The Social Worker In The Long-Term Care Facility



Edited by Novella Perrin and Joanne Poloway

Printed by the Missouri Long-Term Care Ombudsman Program
2004

Long-Term Care Ethics Case Consultation



A practical version of
Missouri's Long-Term Care
Ombudsman Program
PO Box 670
Jefferson City, Missouri 65102
(573) 526-6727
1-800-309-3282
TDD: 1 (800) 735-2366
voice: 1 (800) 735-2466

and
The Center for Practical Bioethics
700 Walnut Street, Suite 2000
Kansas City, Missouri 64106
(816) 221-1186
1-800-344-3623

Should *YOU* report resident abuse?

State law requires that all facility staff and related health care professionals *MUST* report abuse and neglect if they believe a resident has been abused or neglected. Reporters are protected by law against retaliation. Failure to report abuse and neglect is a Class A Misdemeanor. All reports made to the hotline are handled confidentially and the reporter's name is kept confidential.

Elder & Disabled Adult Abuse Hotline Number:

1-800-392-0210

Abuse is the infliction of physical, sexual, or emotional injury or harm to a resident.

Neglect is the failure to provide services when such failure presents either an imminent danger to the health, safety, or welfare OR substantial probability that death or serious physical harm will result to a resident.

In addition to calling the above number, do you know your facility's abuse reporting procedure?

According to section 199.018.2 RSMo, others who must Report Abuse and Neglect are: any adult day care worker; chaplain; Christian Science practitioner; coroner; dentist; resident; employee of the department of social services; general health, or health and senior services; employee of a health care agency or aging or an independent agency on aging program; general director, home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services worker, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; general health professional; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; social worker; or other person with the care of a person sixty years of age or older or an eligible adult has reasonable cause to believe that a resident of a facility has been abused or neglected, he or she shall immediately report or cause a report to be made to the department.



1-800-309-3282 **ANNUAL OPPORTUNITY AWARENESS ACTION MONTH**
services provided as a nondiscriminatory basis

3/2004 130

**In situations of Abuse and Neglect, or Financial Exploitation, Please Call the
Department of Health and Senior Services, Elder Abuse and Neglect Hotline:
1-800-392-0210**

HOTLINE

SILENCE IS NOT GOLDEN

Report Abuse of Senior and
Adults with Disabilities

Elder Abuse & Neglect Hotline
Available 24 hours
1-800-392-0210

TDD 1-800-669-8819

For more information or to secure the services of an Ombudsman

WRITE OR CALL

Department of Health and Senior Services
State Office of Long-Term Care Ombudsman
P.O. Box 570
Jefferson City, MO 65102

1-800-309-3282



For hearing impaired, call RELAY MISSOURI

Text telephone: 1-800-735-2966

Voice: 1-800-735-2466

An Equal Opportunity/Affirmative Action Employer

Services Provided on a nondiscriminatory basis.

This report was made possible in part by the Older Americans Act.

This publication may be provided in alternative formats such as Braille, large print or audiotape by contacting **1-800-309-3282** or visit: <http://www.dhss.mo.gov/Ombudsman>